

Message Text

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ACTION EA-09

INFO OCT-01 ARA-06 ISO-00 CIAE-00 DODE-00 NSAE-00 NSCE-00

SSO-00 USIE-00 INRE-00 FEA-01 ACDA-05 AGR-05 AID-05

CEA-01 CEQ-01 CG-00 CIEP-01 OFA-01 COME-00 DLOS-04

DOT-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-02

INR-07 INT-05 IO-11 JUSE-00 L-03 NSC-05 NSF-01 OES-03

OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15 SAL-01 /116 W

----- 120959

O R 230622Z JAN 76

FM AMEMBASSY CANBERRA

TO SECSTATE WASHDC IMMEDIATE 7337

INFO AMEMBASSY WELLINGTON

AMEMBASSY MEXICO CITY

AMEMBASSY QUITO

C O N F I D E N T I A L SECTION 1 OF 2 CANBERRA 0572

O 11652: GDS

TAGSC PLOS, NZ, AS

SUBJ: LOS TRIPARTITE TUNA TALKS

1. SUMMARY: US LOS FISHERIES TEAM MET WITH GOA AND GONZ OFFICIALS TO DISCUSS US LOS TUNA INITIATIVE WITH LATIN STATES AND TO ATTEMPT TO BRING GOA/GONZ ON BOARD. MEETING WAS HELPFUL AND BOTH GOA AND GONZ AGREED TO COOPERATE IN US EFFORT TO SEEK AGREEMENT ON A53.

2. US TEAM OF BUSBY, HULL, AND BLONDIN MET JANUARY 21 - 23 WITH REPRESENTATIVES OF GOA AND GONZ TO DISCUSS US LOS TUNA INITIATIVE. MEETING CHAIRED BY B.M. BOURCHIER, ASST. SEC., INT'L LEGAL BRANCH, GOA DEPT FOR. AFFAIRS. GOA REPS. INCLUDED GERARD BRENNAN, SPEC. ADV. INT'L LAW, ATTY GEN DEPT; PATRICK RYAN, ASST SEC. FISHERIES DIV., DEPT PRIMARY INDUSTRY; M.M. MCKEOWN, HEAD, LOS/ANTARCTICA SECT, DEPT FOR. CONFIDENTIAL

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AFF.; AND M.A.S. LANDALE, LOS/ANTARCTICA SECT, DEPT FOR. AFF.

GONZ REPS WERE F.A. SMALL, DEPUTY HIGH COMMISSIONER, N.Z.
HIGH COMM.; AND B.T. CUNNINGHAM, DIRECTOR OF FISHERIES,
NZ MIN. OF AGRICULTURE AND FISHERIES.

3. US OPENED TALKS BY BRIEFING PARTICIPANTS ON CURRENT TUNA
INITIATIVE WITH LATIN AMERICAN STATES. TEAM EXPLAINED
PHILOSOPHY OF PROCEEDING SIMULTANEOUSLY WITH NEGOTIATIONS
ON A53 AND EASTERN TROPICAL PACIFIC REGIONAL ARRANGEMENTS.
GOA AND GONZ WERE GIVEN BOTH LIST OF PARTICIPANTS TO NY
MEETING AND COPIES OF GALINDO POHL'S DRAFT OF COMMON ELEMENTS
OF AND VARIANTS TO A53.

4. FOLLOWING US EXPLANATION OF KEY PROVISIONS OF DRAFT,
BOTH GOA AND GONZ STATED PREFERENCE FOR A NEGOTIATION
CENTERED ON EXISTING A53 AND EXPRESSED VIEW THAT A GENERAL
ARTICLE MIGHT BE MORE READILY ATTAINABLE THAN A DETAILED ONE.
THEY EXPRESSED CLEAR PREFERENCE FOR DETAILED ARTICLE ALONG
LINES OF NY DRAFT, BUT THEY ARE CONCERNED AS TO NEGOTIAB-
ILITY OF SUCH AN ARTICLE. GOA PARTICULARLY CONCERNED ABOUT
WHOLESALE RENEGOTIATION OF ANY PART OF SNT AND UNWILLING-
NESS TO UPSET REST OF FISHERIES PROVISIONS TO ACHIEVE SPECIFIC
GOALS RE HIGHLY MIGRATORY SPECIES.

5. AFTER EXTENDED DISCUSSIONS, GOA AND GONZ AGREED BOTH TO
ACCEPT DRAFT A53 AS BASIS FOR FUTURE WORK AND TO ASSIST US
IN EFFORT TO SELL DRAFT TO OTHER STATES. IN THIS CONNECTION,
THEY SUGGESTED THAT CONCERNED AFRICAN AND EUROPEAN STATES
BE BRIEFED SOON AND BROUGHT INTO NEGOTIATIONS AT AN EARLY
TIME, THAT EARLY IN NEW YORK SESSION CORE NEGOTIATING GROUP
(US, LATINS, EUROPEANS, AFRICANS, AND SELECTED OCEANIA
STATES INDIAN OCEAN STATES) BE FORMED AND THAT FIJI
(NANDAN) BE BRIEFED AND SOLD ON APPROACH PRIOR TO OCEANIA
MEETING NEXT WEEK. BOTH STATES ALSO EXPRESSED VIEW THAT IF IN
COURSE OF NEGOTIATION DETAILED A53 DID NOT GAIN ACCEPTANCE,
THEY WOULD SEEK A MORE GENERAL SOLUTION.

6. FOLLOWING COMMENTS SUBMITTED RE NY DRAFT BY GOA/GONZ:

PARA 1 - GOA PREFERENCE IS FOR COMMON ELEMENTS AND VARIANT
A. BOTH EXPRESSED OPPOSITION TO A50, 51, AND 52 REFERENCE,
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ALTHOUGH THEY ADDED THAT CROSS REFERENCE WAS NOT THAT CRITICAL.

PARA 2 - BOTH GOVTS FELT THIS PARA WAS LITTLE BETTER THAN
SNT AND STATED THEY WOULD PREFER STRONGER LANGUAGE REGARDING
THE ESTABLISHMENT OF THE ORGANIZATION. DURING SUBSEQUENT
DISCUSSION, IT BECAME APPARENT THAT THIS IS CARDINAL TENET
OF BOTH GOVTS' POSITION AND ACHIEVEMENT OF STRONG, MANDA-
TORY LANGUAGE SETTING UP REGIONAL ORGANIZATION IS PROBABLY

THEIR PRIMARY OBJECTIVE.

PARA 2A/2B AND PARA 11, VARIANT A: BOTH GOVTS PREFERE
PARA 11, VARIANT A. GOA STATED 2A/2B SEEMED UNACCEPTABLE
TO ANY DISTANT WATER FISHING NATION.

PARA 3 - QUESTION OF ALLOCATION AS FUNCTION OF
ORGANIZATION AROSE IN CONTEXT OF THIS ARTICLE, BOTH GOVTS
FELT THAT PARA 3 AS WORDED DID NOT GIVE ORGANIZATION AUTH-
ORITY TO ALLOCATE AND THAT THEY WOULD INTERPRET IN
THIS MANNER. NEITHER GOVT WANTS ALLOCATION AS DECLARED FUN-
CTION OF ORGANIZATION. INSTEAD, THEYFEEL ALLOCATIONS SHOULD
BE RESOLVED THROUGH NEGOTIATION. THEY WOULD, HOWEVER, BE
WILLING TO ACCEPT PRESENT LANGUAGE OF PARAS 2 AND 3, INTER-
PRETING IT AS PERMISSIVE, PROVIDED PARA 5 IS MODIFIED TO
REMOVE ALLOCATION FROM VOTING PROVISIONS.
(SEE PARA 5 BELOW).

PARA 4 - BOTH GOVTS FELT OBLIGATION FOR ORGANIZATION TO
"TAKE INTO ACCOUNT RELEVANT FACTORS AND CIRCUMSTANCES" WAS
TOO WEAK, BUT STATED THEY COULD LIVE WITH IT. BOTH PREFERE
VARIANT A, ALTHOUGH GOA STATED IT WOULD LIKE TO SEE SOME
LANGUAGE SIMILAR TO VARIANT B ("...EITHER TO INCREASE OR
DECREASE...") INCLUDED, BUT WORDED SO AS TO MAKE CLEAR IT
ALLOWED ORGANIZATION TO USE LIMITATION OF FISHING EFFORT
AS A MANAGEMENT TOOL. BOTH UNDERSTAND THAT UNDERLYING PUR-
POSE FOR INCLUSION OF VARIANT B IS LATIN DESIRE TO LIMIT
ACTUAL FLEET SIZE, AND THEY DO NOT SUPPORT THAT OBJECTIVE.

PARA 5 - BOTH GOVTS EVIDENCED GREAT INTERERST IN VOTING
QUESTION, ADVANCING POSITION THAT VOTING CAN ONLY BE USED TO
ADOPT CONSERVATION MEASURES. ALLOCATIONS MUST BE MADE
THROUGH NEGOTIATION. IF THIS POSITION IS ACCEPTED, BOTH
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GOVTS WOULD PREFER COMMON ELEMENTS AND VARIANT B (US), BUT
STATED THAT AS FALLBACK THEY WOULD LOOK TOWARD DELETION OF
THE ENTIRE ARTICLE (VARIANT A), OR INCLUSION OF AN ARTICLE
CONTAINING ONLY THE COMMON ELEMENTS. NEITHER GOVT SUPPORTED
VARIANT C.

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INFO OCT-01 ARA-06 ISO-00 CIAE-00 DODE-00 NSAE-00 NSCE-00

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PARA 6 -BOTH GOVTS EXPRESSED OPINION THAT INCLUSION OF THIS
PARA MIGHT PROVE DANGEROUS DUE TO NEGATIVE IMPLICATION, AND
THEY FELT THAT THIS ISSUE MIGHT BEST BE DEALT WITH IN FINAL
CLAUSES.

PARA 7 - WHILE RECOGNIZING FUNDAMENTAL PROBLEMS WITHINCLUSION
OF A PARA 7 WHICH REFERRED TO ARTS 50/51, GONZ/GOA SUGGES-
TED POSSIBLE MODIFICATION OF VARIANT C BY DELETING ALL AFTER
"... TO NATIONALS OF OTHER STATES". GOA VIEW IS THAT
MEANING OF PARA IS THEN SUFFICIENTLY AMBIGUOUS TO ALLOW
REGIONAL ORGANIZATIONS TO DEVISE INDIVIDUAL ALLOCATION
SYSTEMS AND COASTAL STATE PREFERENCES FOR THEIR OWN REGION.
GOA ALSO ASKED IF IT WOULD NOT BE POSSIBLE FOR US TO COME
UP WITH "CARROT" FOR LATINS.

PARA 8 - GOA WOULD PREFER CROSS REFERENCE TO SNT ARTS
76-80 IN LIEU OF THIS ART, BUT CHARACTERIZED THIS POINT
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AS "DRAFTING" MATTER.

PARA 9 - THIS PROVISION IS ACCEPTABLE TO BOTH GOVTS, ASS-
UMING ART 60 OF SNT IS SATISFACTORY (SEE PARA 9 BELOW).

PARA 10 - BOTH GOVTS SUPPORT VARIANT A.

PARA 11 - GOA ADVANCED POSITION THAT MAMMALS ARE A RESOURCE TO BE EXPLOITED IN RATIONAL MANNER AND THAT THOSE THAT ARE HIGHLY MIGRATORY SHOULD BE INCLUDED ON LISTING IN ANNEX. GOA STATED THAT IS UNDERSTOOD NEED FOR PROVISION AND THAT IT COULD ACCEPT PRESENT PROVISION EVEN THOUGH IT SEES IT AS INCONSISTENT WITH REST OF ARTICLE. GONZ MORE POSITIVE TOWARD ARTICLE AND EXPRESSED NEED FOR PROVISION WHICH ALLOWED THEM TO PROTECT MAMMALS IN THEIR ECONOMIC ZONE.

7. COMMENT: OCEANIA GROUP MEETING WILL BE HELD WEEK OF 26 JANUARY. GOA/GONZ AGREED TO DISCUSS US INITIATIVE WITH GROUP OF NY DRAFT AS BASIS FOR NEGOTIATION. GOA (RYAN) PRIVATELY STATED OPINION THAT OCEANIA GROUP MAY FEEL SNT APPROACH ADEQUATE, BUT THAT GOA WOULD HEAD OFF ANY WHOLESALE ATTACK ON NY DRAFT, AND THAT HE PERSONALLY FELT WE WERE PROCEEDING ON RIGHT TRACK. US STATED TEAM IN FEB. WOULD LOOK FORWARD TO REPORT ON OCEANIA MEETING AND THAT TEAM WOULD ALSO BRIEF GOA AND GONZ ON FURTHER DEVELOPMENTS INCLUDING NEXT WEEK'S TALKS WITH MEXICO.

8. TEAM DISCUSSED GENERAL QUESTION OF REGIONAL TUNA MANAGEMENT ORGANIZATIONS (RTMO). GOA AND GONZ FELT IOFC AND IPFC COULD SERVE AS SPRINGBOARD TO FUTURE RTMO IN SOUTH PACIFIC REGION BUT BOTH AGREED THAT IOFC AND IPFC THEMSELVES SHOULD BE LIMITED TO SCIENTIFIC WORK. URGENCY TO COMMENCE DEVELOPMENT OF RTMO FOR THIS REGION EXPRESSED BY BOTH. ICCAT SUCCESSES WERE DISCUSSED TO SHARE US EXPERIENCES IN COMPARISON WITH DIFFERENCES IN IATTC.

9. AT GOA REQUEST, TEAM BRIEFLY DISCUSSED PROVISIONS OF A50-60 AND A103-107 OF SNT (FISHERY PROVISIONS). FOLLOWING COMMENTS PERTINENT:

A106 - GOA WOULD LIKE TO INCLUDE REFERENCE TO "APPROPRIATE CONFIDENTIAL

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INTERNATIONAL ORGANIZATION" IN PARA 1. DISCUSSION INDICATED THIS IS RESULT OF DESIRE TO ESTABLISH FISHERY COMMISSION FOR ANTARCTICA (DETAILS FOLLOW SEPTTEL).

A50 - GOA SHARES US CONCERNS RE PARA 1 AND WOULD SUPPORT US PROPOSED AMENDMENT. THEY ARE CONSIDERING AMENDMENT WHICH WOULD INCORPORATE A50.1 INTO A51, AND COMBINING A50, PARAS TWO AND THREE.

A51 - GOA WOULD PREFER PARA 1 CLAUSE "WITHOUT PREJUDICE TO THE PROVISIONS OF ART 50" TO READ "... HAVING REGARD TO THE

PROVISIONS OF A50". GOA SYMPATHETIC TO US DESIRE TO REMOVE LISTING IN A51, PARA 4, BUT DOUBT IF IT IS ACHIEVABLE.

A57-59 - GOA/GONZ IN MUCH SAME POSTURE AS US, AND FEEL THESE ARTICLES WILL REQUIRE FURTHER NEGOTIATION.

ART 60 - GOA HAS SOME PROBLEM WITH PARA 3, STATING DESIRE TO HAE RIGHT OF IMPRISONMENT. PROBLEM IS PRACTICAL ONE, RELATING TO LARGE NUMBERS OF SMALL TAIWANESE AND KOREAN BOATS FISHING OFF THEIR NORTH COASTS. AFTER DISCUSSION, GOA STATED IT MAY BE ABLE TO LIVE WITH ART 60 AND MAY NOT ADVANCE AMENDMENT IF ART IS SATISFACTORY TO MAJORITY OF CONFERENCE.

10. IN COURSE OF DISCUSSIONS, GOA EXPRESSED VIEW THAT DECISION RENDERED IN SPECIAL FISHERIES PROCEEDING IN PART IV (SETTLEMENT OF DISPUTES) SHOULD NOT BE SUBJECT APPEAL. BRENNAN ALSO STATED THAT GOA WOULD PROPOSE TO US TEAM IN FEB. THAT DISPUTE SETTLEMENT PROVISIONS IN PART I (DEEP SEABED) BE DELETED AND THAT DISPUTES REGARDING DEEP SEABED BE DEALT WITH ONLY IN PART IV.

11. ACTION REQUESTED: (D/LOS) PLEASE SEE THAT NANDAN (FIJI) HAS COPY OF DRAFT A53 AND THAT APPOINTMENT BE MADE FOR BRIEFING PRIOR TO OCEANIA GROUP MEETING. WE UNDERSTAND THAT HE PERSONALLY WILL NOT ATTEND MEETING BUT BOTH GOA AND GONZ FELT IT IMPERATIVE THAT HE BE FULLY BRIEFED.
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Message Attributes

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